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MAR 20 2013

FCC Mail Room

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March 19, 2013

VIA FEDERAL EXPRESS

Office of the Secretary
Federal Communications Commission
Attention: Disability Rights Office, Room 3-B431
9300 East Hampton Drive
Capitol Heights, MD 20743

**RE: Petition of St. Paul United Methodist Church for Exemption from
Closed Captioning of Telecasts**

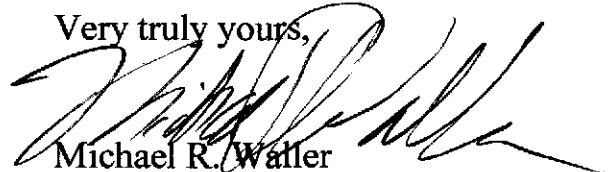
Dear Secretary:

Enclosed for filing are two counterparts of the Petition of St. Paul United Methodist Church for Exemption from Closed Captioning of its telecasts pursuant to § 79.1 of the Commission's rules, and a third counterpart to be file stamped with the docket number inserted and returned to me in the enclosed self addressed envelope.

I call to your attention the fact that the Petition itself is in the form of an affidavit sworn to by St. Paul's senior pastor, Rev. Dr. Eduardo Rivera.

Thank you for your attention to this matter.

Very truly yours,


Michael R. Waller

Enclosures:
3 counterparts of Petition
Self-addressed return envelope

MAR 20 2013

FCC Mail Room

**UNITED STATES OF AMERICA
FEDERAL COMMUNICATIONS COMMISSION**

CG DOCKET NO. 06-181

CGB-GC-_____

**PETITION OF ST. PAUL UNITED METHODIST CHURCH,
ABILENE, TEXAS FOR EXEMPTION FROM THE
COMMISSION'S REQUIREMENTS FOR CLOSED CAPTIONS**

St. Paul United Methodist Church, Abilene, Texas, ("St. Paul") hereby petitions the Federal Communications Commission ("Commission") for a determination by the Commission either that St. Paul's television programming is exempt from the Commission's rules for closed captioning at 47 C.F.R. § 79.1 (f) promulgated under § 713 of the Communications Act, 47 U.S.C. § 613 the "Act") either (i) on a self-implementing basis, or (ii) as economically burdensome.

The persons authorized to receive notices and other pleadings in this proceeding are:

Michael R. Waller, Esq.

18 Saint Andrews Street

Abilene, Texas 79606

Telephone-(325)691-5671

E-mail mr-abwaller@sbcglobal.net

Rev. Dr. Eduardo Rivera

Senior Pastor

St. Paul United Methodist Church

525 Beech Street

Abilene, Texas 79604

Telephone (325) 672-7814

Email erivera@st.paulabilene.org

I. BACKGROUND: St. Paul is a United Methodist church located in Abilene, Texas, that has a membership of 1827 persons. St. Paul has for a number of years contracted with Abilene, Texas television station KTXS, an ABC affiliate, to broadcast to the Abilene local area its Sunday morning worship services and its special Christmas Eve service. KTXS provides this service to St.

Paul by dispatching a transmission truck, cameras and an operator to St. Paul's sanctuary building during the time those worship services are being held and transmitting the signal of St. Paul's worship service to KTXS's broadcast facility for viewing principally in the Abilene area. Currently neither St. Paul nor KTXS provides closed captioning for this live broadcast. The cost of the service provided to St. Paul by KTXS is \$650.00 for each worship service telecast.

The audience for the telecast of St. Paul's worship services consists of persons in the city of Abilene and in Taylor County, Texas, the jurisdiction in which Abilene is located, who are seeking to experience Christian worship while in their homes or at locations other than a St. Paul's sanctuary. Abilene is a small city of 116,484 people, and the population of Taylor County is 131,506 people, both population numbers are from the 2010 census. There are more several one Methodist churches in Taylor County, but St. Paul is the only one of these Methodist churches that telecasts its Sunday worship services. St. Paul does not produce any television programming other than its worship services. St. Paul receives no income from the telecasts of its worship services and provides those telecasts as a public service to its community.

KTXS has recently informed St. Paul that after March 20, 2013, St. Paul must apply closed captions to the telecast of St. Paul's worship services. The cost of this additional service by KTXS to St. Paul will be \$150.00 for each program, or approximately \$7200.00 on a yearly basis. KTXS believes that closed captioning of these telecasts is required by law and the Commission's rules because these telecasts are not exempt from closed captioning under the Commission's section 79.1 (f) rules. St. Paul believes that its telecasts should be exempt from the requirement for closed captioning under self-implementing exemption (8) of the section 79.1(f) rules. St. Paul further believes that if it is not exempt from the requirement for closed captioning on a self-implementing basis that the Commission should determine St. Paul to be exempt from that requirement because the cost to St. Paul to close caption its telecasts would cause St. Paul significant difficulty and would be economically burdensome.

II. ST. PAUL IS ELIGIBLE FOR EXEMPTION FROM THE COMMISSION'S CLOSED CAPTIONING REQUIREMENT UNDER SELF-IMPLEMENTING EXEMPTION (8) OF THE COMMISSION'S SECTION 79 (d) RULES: Section 79.1 (d) of the Commission's rules concerning closed captioning contains several exemptions to those rules, including the exemption stated in subparagraph (8). These exemptions are self-implementing,

and St. Paul recognizes that the Commission does not certify that a provider of programming qualifies under any of these eight exemptions.

However, in this case there is a disagreement between St. Paul as a program owner/provider and KTXS, the television station that telecasts St. Paul's programming as to whether St. Paul's worship service programming falls within any of the self-implementing exemptions from the Commission's closed captioning requirements. Therefore St. Paul must either obtain confirmation that it's exempt from closed captioning its worship service programming or be compelled to bear the difficulty and expense of having closed captions inserted into its programming. St. Paul does not believe that the Commission contemplated such a situation when it announced that it would not "certify" eligibility for the self-implementing exemptions it promulgated in section 79 (d) of its rules.

The eighth self-implementing exemption covers locally produced and distributed non-news programming with no repeat value, that is of local public interest and for which the "electronic news room" technique of captioning is unavailable. As set out elsewhere in this Petition, St. Paul's telecasts of its worship services consist largely of the pastor's sermon. Neither the sermon nor the rest of the worship service proceedings are scripted; the pastor speaks from his notes that he prepares for his sermons, and the sermons almost always contain material that is not contained in those notes. Therefore, the electronic news room technique of closed captioning is not available for St. Paul's programming. As is clear from the description of St. Paul's television programming contained in this Petition, that programming and its distribution by KTXS fall within the ambit of the eighth self-implementing exemption of section 79.1(d). However, confirmation that such is the case by the Commission St. Paul will not be able to take advantage of its eligibility for that self implementing exemption as contemplated by the Commission's rules. Therefore St. Paul requests that the Commission confirm that its telecasts are exempt from the closed captioning requirements on a self-implementing basis.

III. FACTORS DEMONSTRATING THAT PROVISION OF CLOSED CAPTIONING OF THE ST. PAUL TELECASTS WOULD BE ECONOMICALLY BURDENSOME: Under rule 79.1(f) the Commission must consider four factors in making an economically burdensome determination: (i) the nature of the closed captions for the programming; (ii) the impact on the operation of the provider or program owner; (iii) the financial resources of the

provider or program owner; and (iv) the type of operations of the provider or program owner.

1. **The nature and cost of the closed captions for programming:** The nature of the closed captions for the live telecasts of St. Paul's worship services would be the insertion into the live telecast of the printed words as those words are spoken by the pastor or other persons addressing the congregation present at the service. St. Paul does not have the necessary encoding software and other equipment to provide such closed captions and the insertion of closed captions would of necessity have to be performed by KTXS.]

As also stated above, the cost to St. Paul of KTXS providing closed captions for St. Paul's worship service telecasts will be is \$150 for each service, and approximately \$7200.00 per year.

2. **The impact on the operation of the provider or program owner:** St. Paul's 2013 operating budget (a true and correct copy of which is attached as Exhibit A) reflects that St. Paul anticipates funding for entire calendar year 2013 is \$1,024,165.00. As with most churches, St. Paul's operating costs are funded by contributions from its congregation and by non-congregational contributor. St. Paul regularly expends all of the money it receives in contributions, and on occasion relies on borrowed funds for its operations. As shown by the 2013 budget, there is no expected surplus of funds above the requirements of ongoing operations.

The size of the St. Paul's 2013 operating budget principally reflects the total anticipated contributions for 2013. However, the anticipated income number includes only \$727,685.00 contributions actually pledged by the congregation (pledges do not assure that the amount pledged will actually be received by St. Paul), the balance being made up principally of expected contribution amounts based on prior years' experience, which is true of the amount of \$9,000.00 "TV ministry income" line item (which actually consists of anticipated contributions specified as support for the TV ministry).

3. **The financial resources of the provider or programmer:** As reflected in its 2013 budget, St. Paul has allocated the total sum of \$23,800.00. as the expected total cost of its television ministry. As stated above, the \$9,000.00 of "TV Ministry income" is actually anticipated contributions earmarked to support the television ministry. The budgeted cost amount does not include money to pay for closed captioning service provided by KTXS and in fact assumes that St. Paul

will tape its worship services for delayed telecast by KTXS on the next following Sunday beginning in April, 2013. While if St. Paul goes to "tape delay" it will reduce the cost to St. Paul of the telecasts by \$300.00 per worship service, but will require (i) the purchase of the necessary equipment at an anticipated cost of approximately \$25,000.00, (ii) the installation of the equipment either by unpaid St. Paul volunteers, if feasible, or by commercial installers at an additional cost, and (iii) training of St. Paul volunteers to perform the recordings. Currently St. Paul does not have funds available to purchase such equipment and that purchase cost is not included in the 2013 operating budget; therefore, St. Paul may well elect to continue with live telecasts of its worship services at an additional unbudgeted cost of approximately \$11,000.00, substantially less than the cost and difficulty of tape delayed telecasts.

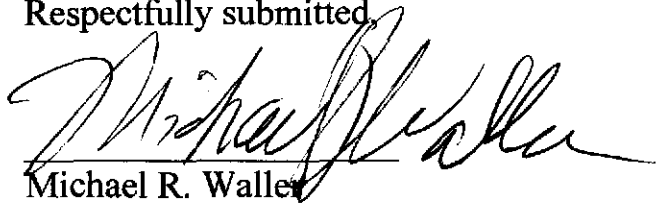
St. Paul's TV ministry consists solely of the telecasts of its worship services and is truly a public service provided by the congregation of St. Paul at no cost to the viewing public and for which St. Paul receives no income.

4. The type of operations of the provider or program owner: The type of operations of St. Paul as the provider or program owner is clearly described above. Obviously St. Paul is not in the television business nor is it in the business of providing television programming. St. Paul exists to minister to the spiritual needs of those persons resident in Abilene and Taylor County, Texas who are either members of St. Paul or who choose to affiliate with the United Methodist Church, and to carry on Christian missionary outreach work.

IV. CONCLUSION AND REQUEST FOR RELIEF: Based on the foregoing, information, St. Paul believes it is entitled to (i) a confirmation by the Commission that it is exempt from the Commission's requirements to provide closed captioning for its worship service programming under the eighth subparagraph of section 79.1(d); or (ii) to have the Commission issue a finding and order that its worship service programming are so exempt because providing closed captions for such programming would result in a significant difficulty or expense for St. Paul and would be economically burdensome. Therefore, St. Paul respectfully requests that the Commission order such relief.

Dated: March 19, 2013

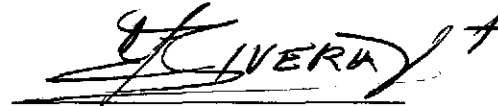
Respectfully submitted,



Michael R. Waller

Attorney for St. Paul United Methodist Church

Texas Bar # 20783000



Eduardo Rivera

Senior Pastor

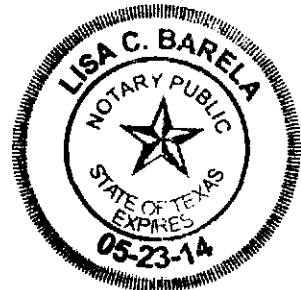
St. Paul United Methodist Church

Abilene, Texas

STATE OF TEXAS §

COUNTY OF TAYLOR §

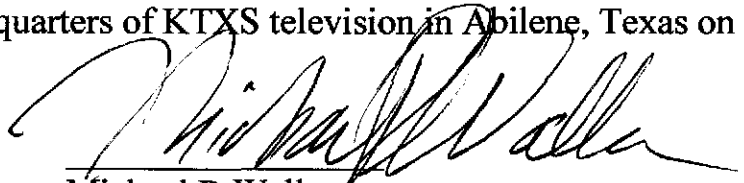
BEFORE ME, the undersigned Notary Public, on this 19th day of March, 2013, personally appeared Eduardo Rivera, who being first duly sworn on his oath stated that he is the Senior Pastor of St. Paul United Methodist Church in Abilene, Texas, and that the information stated in the above and foregoing Petition are true and correct based on his personal knowledge.


Notary Public

CERTIFICATE OF SERVICE

I hereby certify that a true and complete counterpart of this Petition was hand delivered to the station headquarters of KTXS television in Abilene, Texas on March 19, 2013.

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Michael R. Waller

St. Paul United Methodist Church
Profit & Loss Budget Overview
January through December 2013

	Jan - Dec 13
Income	
4000 · Worship Giving	915,500.00
4030 · Shared Ministry - Apportionment	29,500.00
4070 · TV Ministry Income	9,000.00
4080 · Newsletter Advertising	1,500.00
4090 · Interest Earned Operating	10.60
4197 · Transfer From Special	41,500.00
4200 · Prior Year Giving	27,154.40
Total Income	1,024,165.00
Gross Profit	1,024,165.00
Expense	
5000 · Shared Ministries	
5005 · Clergy Benefits	38,250.00
5010 · Conference Benevolence	0.00
5015 · District Superintendents Fund	15,000.00
5020 · Episcopal Fund	4,144.00
5025 · Equitable Salary Fund	1,223.00
5030 · Conference Insurance Program	0.00
5034 · Conference Ministry	
5034a · Deploy	0.00
5034b · Invite	0.00
5034c · Equip	0.00
5034d · Nurture	0.00
5034e · CLT	0.00
Total 5034 · Conference Ministry	0.00
5035 · Conference Services	24,000.00
5040 · World Service	0.00
5045 · District Services/ Ministries	6,523.00
5050 · African Universal Fund	0.00
5055 · Interdenominational Fund	0.00
5060 · General Administration Fund	0.00
5065 · Board of Ministry	720.00
5070 · Ministerial Education	0.00
5075 · Black College Fund	0.00
5080 · Wesley FDN TTEC WTSU	0.00
5085 · Camp Prog Butman & Ceta	2,000.00
5090 · Hispanic Ministry	0.00
5095 · Texas Meth College Assn.	3,086.00
5105 · Home for the Aging	0.00
5110 · Lydia Patterson	330.00
5115 · Church Ext & Revit	6,740.00

EXHIBIT A

St. Paul United Methodist Church

Profit & Loss Budget Overview

January through December 2013

	Jan - Dec 13
5125 · Mt. Sequoyah Meth Assems	0.00
5130 · Stabilization FD Replenishment	0.00
5135 · Wesley Community Center	400.00
5140 · Mission and Admn. Fund	0.00
Total 5000 · Shared Ministries	102,416.00
5200 · Children	
5210 · Children's Worship Kits	300.00
5215 · Classroom Supplies	1,200.00
5230 · Vacation Bible School	1,200.00
5234 · Bible Presentations	100.00
5250 · Sunday School Literature	600.00
5260 · Children's Church (Godly Play)	120.00
5275 · Summer Fun Days	120.00
5287 · Volunteer Appreciation	240.00
5297 · Easter egg program	120.00
Total 5200 · Children	4,000.00
5400 · Youth	
5410 · Snack Supper	500.00
5415 · Youth Activities	3,000.00
5420 · Youth Retreat	500.00
5425 · Youth Literature	700.00
5440 · Confirmation	600.00
5445 · Senior Recognition	100.00
5451 · Sponsor Appreciation	200.00
5460 · Camp Scholarship	350.00
5475 · Technology Fund	300.00
5482 · Camp Transportation	250.00
Total 5400 · Youth	6,500.00
5600 · University	
5610 · University Programing	100.00
5615 · University Activity	250.00
5620 · University Literature	250.00
Total 5600 · University	600.00
5800 · Adult Education	
5820 · Wednesday Night	480.00
5825 · Volunteer Appreciation	60.00
5830 · Disciple Bible	0.00
5850 · SS Literature	720.00
5870 · Upper Room- Dev. Materials	1,020.00
5880 · Small Groups	720.00

St. Paul United Methodist Church
Profit & Loss Budget Overview
January through December 2013

	Jan - Dec 13
Total 5800 · Adult Education	3,000.00
 6200 · Communication	
6210 · Church Newsletter/Contact	6,500.00
6215 · Television Ministry	23,800.00
6220 · Advertising	4,000.00
6228 · Web Site	2,700.00
Total 6200 · Communication	37,000.00
 6400 · Worship	
6410 · Worship Printing	4,800.00
6415 · Worship Resources	1,800.00
6420 · Candles/Flowers	400.00
Total 6400 · Worship	7,000.00
 6600 · Music	
6610 · Ministry Assistant	1,500.00
6615 · Guest Musicians	200.00
6620 · Adult Choir Retreat	0.00
6630 · Handbell Ministry	1,200.00
6635 · Children's Music Ministry	900.00
6645 · Adult Music	1,500.00
6650 · Instrument & Equipment	2,400.00
6655 · Festivals & Conference	1,000.00
6660 · Music Ministry Resources	900.00
6670 · Copyright Licensing	2,400.00
Total 6600 · Music	12,000.00
 6700 · Welcoming Ministries	
6710 · Welcoming Ministries Supplies	900.00
Total 6700 · Welcoming Ministries	900.00
 6801 · Kitchen	
6810 · Dinner	100.00
Total 6801 · Kitchen	100.00
 7000 · Administrative Expenses	
7001 · Salaries	
7001a · Staff Salaries	402,757.12
7001b · Intern/ Assistant Salaries	4,800.00
7001c · Nursery Salaries	6,300.00
7001d · Building and Grounds Salaries	61,200.00
7001e · TV/Sound Salaries	12,000.00
Total 7001 · Salaries	487,057.12

St. Paul United Methodist Church
Profit & Loss Budget Overview
January through December 2013

	<u>Jan - Dec 13</u>
7003 · Sr Pastor Accountable Reimburse	
7003a · Sr. Pastor AR Business/Travel	3,500.00
7003e · Sr. Pastor AR Medical	1,000.00
Total 7003 · Sr Pastor Accountable Reimburse	<u>4,500.00</u>
 7004 · Sr. Pastor Benifits	
7004a · Sr Pastor Health Ins.	17,664.00
7004b · Sr Pastor CPP	2,760.00
7004c · SR. Pastor CRSP	13,367.28
Total 7004 · Sr. Pastor Benifits	<u>33,791.28</u>
 7007 · As Pastor Benefits	
7007a · As Pastor Health Ins.	17,664.00
7007b · As Pastor CPP	1,564.56
7007c · As Pastor CRSP	7,562.04
Total 7007 · As Pastor Benefits	<u>26,790.60</u>
 7009 · As Pastor Housing	15,000.00
7010 · Postage	6,480.00
7015 · Telephone/Internet	8,100.00
7020 · Emp Group Ins	43,140.00
7030 · Other Admin Exp	1,000.00
7035 · Annual Audit Exp	6,000.00
7040 · Computer Expense	3,600.00
7045 · Office supplies	3,900.00
7050 · Copy Expense	6,000.00
7055 · Annual Conference Exp	520.00
7060 · Accounting Expense	600.00
7080 · Cont Ed Music Dir	700.00
7101 · Office Staff Pension	14,670.00
7180 · Payroll Taxes	28,800.00
Total 7000 · Administrative Expenses	<u>690,649.00</u>
 7200 · Building, Grounds \$ Vehicles	
7205 · Utilities-Parsonage	4,800.00
7210 · Utilities-Church	64,100.00
7215 · Insurance	43,800.00
7220 · Building Maint/Supplies	35,000.00
7225 · Parsonage Maint	2,100.00
7230 · Yard maint-Church	3,600.00
7235 · Yard maint-Parsonage	1,200.00
7250 · Maint Contracts	3,000.00
7501 · Vans	2,400.00

11:33 AM
03/05/13
Accrual Basis

St. Paul United Methodist Church
Profit & Loss Budget Overview
January through December 2013

	<u>Jan - Dec 13</u>
Total 7200 - Building, Grounds \$ Vehicles	<u>160,000.00</u>
Total Expense	<u>1,024,165.00</u>
Net Income	<u>0.00</u>